

AMENDED IN ASSEMBLY MAY 28, 2010

AMENDED IN ASSEMBLY APRIL 28, 2010

AMENDED IN ASSEMBLY MARCH 15, 2010

CALIFORNIA LEGISLATURE—2009–10 REGULAR SESSION

ASSEMBLY BILL

No. 1826

Introduced by Assembly Members Huffman and Feuer
(Coauthors: Assembly Members Beall, Blumenfield, Hill, and
Saldana)

(Coauthors: Senators DeSaulnier, Pavley, Price, *Wiggins*, and Yee)

February 11, 2010

An act to add Section 1367.225 to the Health and Safety Code, and to add Section 10123.197 to the Insurance Code, relating to health care coverage.

LEGISLATIVE COUNSEL'S DIGEST

AB 1826, as amended, Huffman. Health care coverage: prescriptions.

Existing law, the Knox-Keene Health Care Service Plan Act of 1975, provides for the licensure and regulation of health care service plans by the Department of Managed Health Care and makes a willful violation of the act a crime. Existing law provides for the regulation of health insurers by the Department of Insurance. Existing law requires a health care service plan contract or a health insurance policy covering prescription drug benefits to provide specified coverage to subscribers, enrollees, and insureds.

This bill would require a health care service plan ~~or contracts and health insurers covering~~ *insurance policies that cover outpatient* prescription drug benefits to provide coverage for a drug that has been prescribed for the treatment of pain ~~without first requiring~~ *and would*

prohibit those contracts and policies from requiring the subscriber, enrollee, or insured to first use another drug or product as specified.

The bill would specify that these provisions do not apply to a health care service plan or health insurance policy purchased by the Board of Administration of the Public Employees' Retirement System.

Because a willful violation of the bill's requirements with respect to health care service plans would be a crime, the bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. Section 1367.225 is added to the Health and
2 Safety Code, to read:

3 ~~1367.225. (a) Every health care service plan covering~~
4 ~~prescription drug benefits shall provide coverage for a drug that~~
5 ~~has been prescribed by a participating licensed health care~~
6 ~~professional for the treatment of pain without first requiring the~~
7 ~~subscriber or enrollee to use an alternative prescription drug or an~~
8 ~~over-the-counter product.~~

9 1367.225. (a) *A health care service plan contract that covers*
10 *outpatient prescription drug benefits shall provide coverage for*
11 *a drug that has been prescribed by a participating licensed health*
12 *care professional for the treatment of pain and shall not require*
13 *the subscriber or enrollee to first use an alternative prescription*
14 *drug or an over-the-counter drug, but may require the subscriber*
15 *or enrollee to first use a generically equivalent drug.*

16 (b) *For the purposes of this section, "generically equivalent*
17 *drug" means drug products with the same active chemical*
18 *ingredients of the same strength, quantity, and dosage form, and*
19 *of the same generic drug name, as determined by the United States*
20 *Adopted Names (USAN) and accepted by the federal Food and*
21 *Drug Administration (FDA), as those drug products having the*
22 *same chemical ingredients.*

1 ~~(b)~~

2 (c) This section does not prohibit a health care service plan from
3 charging a subscriber or enrollee a copayment or a deductible for
4 prescription drug benefits or from setting forth, by contract,
5 limitations on maximum coverage of prescription drug benefits,
6 provided that the copayments, deductibles, or limitations are
7 reported to, and held unobjectionable by, the director and set forth
8 to the subscriber or enrollee pursuant to the disclosure provisions
9 of Section 1363.

10 ~~(e)~~

11 (d) This section shall not apply to a health care service plan
12 purchased by the Board of Administration of the Public Employees'
13 Retirement System pursuant to the Public Employees' Medical
14 and Hospital Care Act (Article 1 (commencing with Section 22750)
15 of Chapter 1 of Part 5 of Division 5 of Title 2 of the Government
16 Code).

17 ~~(d)~~

18 (e) Nothing in this section shall be construed to require coverage
19 of prescription drugs not in a plan's drug formulary or to prohibit
20 *generically equivalent drugs* or generic drug substitutions as
21 authorized by Section 4073 of the Business and Professions Code.

22 SEC. 2. Section 10123.197 is added to the Insurance Code, to
23 read:

24 ~~10123.197. (a) Every health insurer covering prescription drug~~
25 ~~benefits shall provide coverage for a drug that has been prescribed~~
26 ~~by a licensed health care professional for the treatment of pain~~
27 ~~without first requiring the insured to use an alternative prescription~~
28 ~~drug or an over-the-counter product.~~

29 10123.197. (a) A health insurance policy that covers outpatient
30 prescription drug benefits shall provide coverage for a drug that
31 has been prescribed by a participating licensed health care
32 professional for the treatment of pain and shall not require the
33 insured to first use an alternative prescription drug or an
34 over-the-counter drug, but may require the insured to first use a
35 generically equivalent drug.

36 (b) For the purposes of this section, "generically equivalent
37 drug" means drug products with the same active chemical
38 ingredients of the same strength, quantity, and dosage form, and
39 of the same generic drug name, as determined by the United States
40 Adopted Names (USAN) and accepted by the federal Food and

1 *Drug Administration (FDA), as those drug products having the*
2 *same chemical ingredients.*

3 ~~(b)~~

4 (c) This section does not prohibit a health insurance policy from
5 charging an insured a copayment or a deductible for prescription
6 drug benefits or from setting forth, by contract, limitations on
7 maximum coverage of prescription drug benefits, provided that
8 the copayments, deductibles, or limitations are reported to, and
9 held unobjectionable by, the commissioner and set forth to the
10 insured pursuant to the disclosure provisions of Section 10603.

11 ~~(e)~~

12 (d) This section shall not apply to a health insurance policy
13 purchased by the Board of Administration of the Public Employees'
14 Retirement System pursuant to the Public Employees' Medical
15 and Hospital Care Act (Article 1 (commencing with Section 22750)
16 of Chapter 1 of Part 5 of Division 5 of Title 2 of the Government
17 Code).

18 ~~(f)~~

19 (e) Nothing in this section shall be construed to require coverage
20 of prescription drugs not in an insurer's drug formulary or to
21 prohibit *generically equivalent drugs or* generic drug substitutions
22 as authorized by Section 4073 of the Business and Professions
23 Code.

24 SEC. 3. No reimbursement is required by this act pursuant to
25 Section 6 of Article XIII B of the California Constitution because
26 the only costs that may be incurred by a local agency or school
27 district will be incurred because this act creates a new crime or
28 infraction, eliminates a crime or infraction, or changes the penalty
29 for a crime or infraction, within the meaning of Section 17556 of
30 the Government Code, or changes the definition of a crime within
31 the meaning of Section 6 of Article XIII B of the California
32 Constitution.